

JUNE 8, 2011
PROPOSED REVISIONS TO CERTIFICATION TIMELINES
HANDOUT #1B
(for discussion purposes only)

(Note: the single underline and strikeout represent the 45-day comment period revisions.
The double underline and strikeout represent additional proposed revised language.)

Section 17945.1. Pre-Certification Process

(a) ~~List of Identification of~~ Companies Subject to Certification. Upon the discovery of a product manufacturer that has been newly identified as selling or offering for sale rigid plastic packaging containers into ~~the state~~California, the Department ~~Board~~ shall notify the product manufacturer that it ~~appears to be is~~ subject to the requirements of Section 17944 of this Article, and has been added to ~~a the~~ pool of companies which may be required to certify compliance with this Article. ~~The Department Board shall notify the product manufacturer of this determination in writing at least one calendar year prior to the start of the measurement period.~~ Within 90 days of notification from the Department ~~Board~~ the product manufacturer shall submit information pursuant to 17945.3(b), including, ~~at a minimum, but not limited to:~~

- (1) ~~Pursuant to Section 17945.3(a), The~~ designated contact's name and title;
- (2) Contact phone number(s), fax number(s) and e-mail address(es);
- (3) Mailing address(es), web address (if available); and
- (4) ~~If applicable, a~~Any information the product manufacturer believes will demonstrate that the product manufacturer does not sell its product(s) within rigid plastic packaging containers, as defined in PRC Section 42301(f), into ~~the state~~California, and so is not subject to this Article.

(b) Pre-Certification Notice.

(1) At least one calendar year before the start of a measurement period, the Department shall select from the pool of known product manufacturers a subset of companies that may be required to certify compliance for that measurement period. The Department Board shall notify the selected product manufacturers of this determination in writing by January 31 of the calendar year prior to the start of the measurement period.

(2) Within 60 days of receipt of a precertification notice per subsection (b)(1), a product manufacturer may seek an advisory opinion from the Department pursuant to Section 17948.2.

(3) Within 90 days of receipt of a precertification notice per subsection (b)(1), the product manufacturer shall submit the contact information listed in subsection (a).

~~(bc)~~ Selection of Companies to Certify Compliance. The Department ~~Board~~ may select product manufacturers ~~that may be required~~ to certify compliance for a measurement period based on the following hierarchy:

(1) Product manufacturers that have been selected for the previous certification that have not yet been found to be in compliance with this Article;

(2) A random selection of product manufacturers that have not yet been selected to certify compliance with this Article;

(3) A random selection of product manufacturers that have previously been selected for certification and have been found to be in compliance with this Article.

~~(e)~~

~~(d) Certification Notice of Companies to Certify Compliance. At the beginning of a measurement period, the Department shall select from the companies previously notified per subsection (b)(1), the subset that will be required to certify compliance for that measurement period. The Department shall notify the product manufacturers selected for certification by March 31 of the measurement period. shall be notified by March 1st of the calendar year that they may be required to certify compliance with this Article for the measurement period that corresponds with that calendar year.~~

Note: Authority cited: Sections 42310.2(a), 42310.3(2)(b), 40502 and 42325 Public Resources Code.

§ 17946 Section 17945.2. Compliance Certifications Who Must Certify That Compliance With This Article Is Met?

(a) Who must submit certifications?

Product manufacturers, pursuant to ~~Section 17943(b)(12) of this Article, and only upon written notification from the Department Board as described in this section,~~ are required to certify to the ~~Department Board~~ that all of their rigid plastic packaging containers that they use sold or offered for sale in this state California comply with the rigid plastic packaging container requirements, pursuant to PRC Section 42310 or 42310.3. Product manufacturers shall submit the information described in Section 17945.3 in their certifications ~~and may do so on forms provided by the Department Board.~~ if they sell or offer for sale a product in a rigid plastic packaging container that is sold to a final end-user in California.

~~Upon the Board's request, a product manufacturer must submit a Board-supplied product manufacturer certification containing information that includes, but is not limited to, the information described in section (i) below.~~

~~A product manufacturer must, in addition, submit a container manufacturer certification if the product manufacturer chooses compliance based on the postconsumer content or source reduction compliance options, pursuant to this section and Sections 17944 and 17946.5 of this Article.~~

~~(b) Container manufacturers' must shall supply a certification provided to product manufacturers that shall include the information described in §Section 17945.4 and may do so on forms provided by the Department Board.~~ (h) below, if the container manufacturer produces rigid plastic packaging containers that either

~~—(1) Meet the postconsumer material compliance option, or~~

~~–(2) Meet the source reduction compliance option where the source reduction was achieved by reducing the weight of the containers used for a specific amount (ounces, grams, etc.) of product.~~

~~–Proprietary information included in a certification submitted to the Board as required by this Article shall not be made available to the general public. The Board's procedures for protection of proprietary information can be found in section 17948.~~

~~(b) When must certifications be submitted?~~

~~The Board may request a completed certification from a product manufacturer once per calendar year or once per a product manufacturer's compliance measurement period, pursuant to Section 17943(b)(15) of this Article. The Board shall not initiate requests for certifications until January 1, 1996, and will not require a product manufacturer to submit evidence of its compliance until 90 days after the end of the calendar year or measurement period established pursuant to Section 17943(b)(15).~~

~~(c) Where can I get a certification form?~~

~~As part of the Board's notification to product manufacturers that they shall submit a compliance certification, the Board will include a product manufacturer certification form and a container manufacturer certification form. The Board will request that compliance certification be made by certified mail.~~

~~(d) How will the Board determine which product manufacturers are to submit a rigid plastic packaging container certification form and how will the Board notify product manufacturers of its determination?~~

~~In addition to random selection, the Board may use the following criteria to determine when to request a certification form from a product manufacturer: container type, product type held by the container, company size, or receipt of information that causes the Board to suspect that a container is not in compliance. The Board will request a certification of compliance from a product manufacturer in writing.~~

~~(e) How long do I have to respond to a Board request for a completed certification forms?~~

~~(c) A product manufacturer's completed certification, including any applicable container manufacturer certifications, forms must be postmarked or sent electronically no later than 90 calendar days April 1 of the calendar year immediately following the measurement period. from the date of receipt of on which the Department's Board's notice request arrived via certified mail.~~

~~(d) Product manufacturers may, in writing pPrior to the due date of its certification end of the measurement period, a product manufacturer may request an extension for submittal of its certification of up to an additional 30 calendar days for cause to respond to the Board's request for certification. An extension may be granted by the Department Board~~

only if the product manufacturer provides ~~the Board with~~ documentary evidence to ~~support justify its request an extension~~ based on criteria such as corporate acquisitions, corporate reorganizations, difficulty obtaining container information, or catastrophic acts of God, or other criteria deemed acceptable upon the Department's Board's evaluation.

(fe) ~~As a product manufacturer, how will I know if my certification forms are complete?~~

~~The Board will review the certification forms to determine (1) the completeness of the certification forms; and (2) if not complete, any additional information or documentation needed. If the Department Board receives a certification that, upon review, does not include all of the information required by this Article, the Department Board will then, notify the product manufacturer notify the product manufacturer as to the completeness of the forms. The Board's notice will and state whether what any additional information or documentation is required. The product manufacturer will then have 30 calendar days after the receipt of the notice to provide the required information or documentation. One 30 calendar day extension may be granted for cause by the Department Board upon request.~~

~~(gf) At any time, the Department Board may request information from a product manufacturer outside of any notice of incomplete certification. In such cases, the Department Board shall mail a written request, and the product manufacturer shall have 60 calendar days following the date of receipt of the request to supply the information. If I am a product manufacturer and I wish to claim compliance through the source reduction or postconsumer content options, as described in Section 17944 of this Article, who must provide certification to the Board: I or the container manufacturer?~~